IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

Crl.Rev.Pet.No. 1494 of 2002()

CRA.160/2000 of SESSIONS COURT, KOZHIKOE
CC.982/1996 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE
.....

REVN. PETITIONER: APPELLANT/ACCUSED:

MUHAMMAD BABU, S/O. BEERANKOYA,
THOTTOOLIPADAM VEEDU, VATTAMPOYIL,
NAGARAM AMSOM DESOM.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT/RESPONDENT/COMPLAINANT:

THE SUB INSPECTOR OF POLICE,
CITY TRAFFIC, KOZHIKODE.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.No.8285/2002 IN CRL.R.P.NO.1494/2002

DISMISSED

11-06-2007 Sd/-K.R.UDAYABHANU,JUDGE

TRUE COPY

P.A.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P. NO.1494 of 2002

Dated this the 11th day of June, 2007

ORDER

The revision petitioner stands convicted for the offences under sections 279 and 338 IPC and under sections 185, 146 read with 196 of the M.V.Act. The prosecution case is that on 14-3-96 at 22-45 hours, the accused/revision petitioner drove motor cycle bearing Reg.No. KL-11-C 6596 through the Francis road, Kozhikode from east to west in a rash and negligent manner after consuming alcohol and hit against the motor cycle bearing Reg.No.KL-11-B 5923 as a result of which PW-1 who was riding the other motor cycle was thrown out resulting in grievous injuries to him as well as to the child who was in the pillion.

2. The evidence adduced in the matter consisted of the testimony of PWs 1 to 12; Exts.P1 to P11. Ext.D1 compounding petition was also filed in the court below. It is the evidence of PW-5 doctor who examined the accused and issued Ext.P4 drunkenness certificate that he drove the vehicle after consusing liquour. Evidently, there would not be having proper reflexes at the time of riding the vehicle after getting drunk. The evidence of AMVI

i.e. PW8 and Exts.P6 and P7 certificates revealed that the vehicle had no mechanical defect. PW-1 sustained fracture of the left clavicle. The child aged 4 years sitting on the pillion of the motor cycle driven by PW-1 also sustained fracture of the left hand. It is also submitted that the accused has produced Ext.D1 compounding petition. The same was dismissed on the ground that the offences are not compoundable.

3. I find that the concurrent findings of the courts below are supported by proper reasons. The same is confirmed. All the same, considering the fact that the incident has taken place in March 1996 and also that the parties have compounded the offence, the sentence is modified to a fine of Rs.1000/- for the offence under section 279 IPC and in default to undergo simple imprisonment for two weeks ; and to pay a fine of Rs.1000/- for the offence under section 338 IPC and in default to undergo simple imprisonment for two weeks. Sentences for the rest of the offences are confirmed.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU, JUDGE.

Kvm/

K.R.UDAYABHANU, J.

CRL.R.P. NO.1494 OF 2002

ORDER

11-4-2007.